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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,735	08/20/2003	Shigeru Kitahara	KIYO-30CIP	2155
7590	03/29/2004		EXAMINER	
Curtis L. Harrington Suite 250 6300 State University Drive Long Beach, CA 90815			CULLER, JILL E	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/647,735

Applicant(s)

KITAHARA ET AL.

Examiner

Jill E. Culler

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: The specification appears to be a literal translation into English from a foreign document and is replete with grammatical and idiomatic errors. For example, on page 1, line 9, the phrase "by beforehand soaking ink therein", on page 1, lines 18-19, the phrase "a stamp manufacturing processing by a thermal head", on page 2, lines 4-5, the phrase "making black pigment to generate heat with irradiating light" each do not conform to standard English grammar. On page 1, line 24, and throughout the specification, the term "inantiomers" is not found to have a definition in a standard English language dictionary and is not sufficiently defined in the specification. On page 6, lines 17-18, the phrase "which cover is taken off the and which is put on" appears to have some content missing. On page 9, line 8, it appears that the word "form" should be "from" instead.

Appropriate correction and/or clarification is required for these and similar errors throughout the specification.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,020,053 to Suda in view of U.S. Patent No. 5,979,323 to Hirano.

With respect to claim 1, Suda teaches a porous resin stamp, 39, comprising a porous resin body, 38, having a heating material volumetrically combined within both an unmelted portion of the surface of the porous resin body and within an ink inexuding melted portion of the porous body. See column 1, line 55 - column 2, line 12.

Suda does not teach that the heating material includes phthalocyanine pigment.

Hirano teaches a stamp, 3, having a porous body, see column 3, lines 26-27, volumetrically combined with a phthalocyanine pigment. See column 6, lines 1-5.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the stamp of Suda to include the phthalocyanine pigment of Hirano to change the color of the stamp images.

With respect to claim 2, Suda teaches a porous resin stamp, 69, comprising a porous resin body, 58, having a layer of porous heating material, 60, layered on at least a first surface of said porous resin body, within both an unmelted portion of said layer of porous heating material layered on said first surface of said porous resin body for and an ink inexuding melted portion of the porous body. See column 1, line 55 - column 2, line 7 and column 2, lines 13-19.

Suda does not teach that the heating material includes phthalocyanine pigment.

Hirano teaches a stamp, 3, having a porous body, see column 3, lines 26-27, volumetrically combined with a phthalocyanine pigment. See column 6, lines 1-5.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the stamp of Suda to include the phthalocyanine pigment of Hirano to change the color of the stamp images.

With respect to claims 3 and 5, Suda teaches that the heating material further comprises carbonic particles. See column 2, lines 20-29.

With respect to claims 4 and 6, although Suda does not directly teach that a composition ratio of carbonic particles and phthalocyanine pigment is in the weight ratio of from about 0.1:1.0 to about 5.0:1.0, the optimum ration of these elements could readily be determined by one of ordinary skill in the art through routine experimentation and does not appear to require any unobviousness.

With respect to claims 7-18, Suda teaches the stamp, 50, comprises a cartridge having an ink-storing material, 39, a cover, 54, and a holding part, 51. See column 6, lines 20-29 and Figures 9A and 9B.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-2 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,645,418. Although the conflicting claims are not identical, they are not patentably distinct from each other because the product of the processes claimed in the cited patent would be substantially the same as the product claimed in the present application.

### **Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,611,279 to Ando et al., 5,771,808 to Kuriyama et al., 5,873,308 to Taira and U.S. Patent No 6,010,767 to Ando each teach a stamp having obvious similarities to the claimed subject matter.


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill E. Culler whose telephone number is (571) 272-2159. The examiner can normally be reached on M-Th 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jec

  
Dan Colilla  
Primary Examiner  
Art Unit 2854